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Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
1993 Annual Access Tariff Filings) CC Docket No. 93-193
Tariffs of Local Exchange Carriers)

Bell Atlantic Reply Comments

None of the comments¹ on the direct case² of the Bell Atlantic telephone companies³ ("Bell Atlantic"), provide a legitimate basis to modify Bell Atlantic's annual price cap filing tariffs. No party challenged Bell Atlantic's reallocation of General Support

¹ See Reply Comments of United and Central Telephone Companies to the Direct Cases of Other Parties ("United Comments"); Comments of Allnet Communication Services, Inc. on LEC Direct Cases ("Allnet Comments"); MCI Telecommunications Corporation Opposition to Direct Cases ("MCI Opposition"); AT&T Opposition to Direct Cases ("AT&T Opposition"); and Ad Hoc Telecommunications Users Committee Comments on Direct Cases ("Ad Hoc Comments").

² The Commission issued an order suspending Bell Atlantic's 1993 annual access tariff filing for one day and allowed it to take effect subject to investigation. See 1993 Annual Access Tariff Filings, Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, CC Docket No. 93-193 (rel. June 23, 1993) ("Designation Order"). Bell Atlantic filed its response to the Designation Order on July 27, 1993.

³ The Bell Atlantic telephone companies are the Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, the Diamond State Telephone Company, and New Jersey Bell Telephone Company.

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Facilities Costs.⁴ As set forth below, the challenges on the remaining issues were repetitive and superficial, and should be rejected by the Commission.

1. Exogenous Treatment of SFAS-106 Costs.

The primary focus of the comments was on the issue of LEC control over SFAS-106 costs.⁵ None of these comments, however, challenge the case law presented by Bell Atlantic demonstrating the limitations courts have put on employers' abilities to modify benefits.⁶ Moreover, when comments did directly address Bell Atlantic's direct case, they ignored an important limitation in Bell Atlantic's request for exogenous treatment of SFAS-106 costs. Bell Atlantic seeks exogenous treatment for the Transitional Benefit Obligation ("TBO") of existing retirees only.⁷ The arguments raised in the comments do not apply to a population of

⁴ In addition, AT&T, Allnet and United mentioned the assignment of LIDB per query charges. See United Comments at 1-4; AT&T Opposition at 38-40; Allnet Comments at 25. None of them challenge the specific basis for Bell Atlantic's assignment to the Transport Category. See Bell Atlantic Direct Case at 14. However, AT&T and Allnet inappropriately suggest the need for a rulemaking proceeding. Such a suggestion is inappropriate in this docket and can have no impact on existing tariffs.

⁵ See, e.g., AT&T Opposition at 6-13; Allnet Comments at 3-4; MCI Opposition at 8-9.

⁶ See Bell Atlantic Direct Case at 2-3.

⁷ See Bell Atlantic Direct Case at 2.

already retired workers. For example, MCI and AT&T⁸ reference an August 17, 1989 Memorandum of Understanding with Bell Atlantic's unions and cite Bell Atlantic's right to modify benefits under that agreement.⁹ By its own terms, however, that memorandum only affects the benefits of future retirees.¹⁰ It has no impact on those who were already retired at the time of the agreement. It is only the TBO costs for the limited group of existing retirees for which Bell Atlantic seeks exogenous treatment.

Several comments try to distort reality in order to make a case for disallowing exogenous treatment of SFAS-106 costs. AT&T argues that Bell Atlantic's adoption of the accounting changes within the window of time open to make such changes was voluntary.¹¹ MCI goes so far as to argue that the associated costs should not be recognized as real for the purposes of price cap regulation.¹² These arguments are silly. The Commission required

⁸ AT&T is apparently of two minds on the issue of exogenous treatment for SFAS-106, having sought Commission approval for exogenous treatment of its own TBO amounts. See *AT&T Communications Tariff F.C.C. Nos. 1 and 2*, Memorandum Opinion and Order Suspending Rates and Designating Issue for Investigation, CC Docket 93-193, Phase II (Com. Car. Bur. rel. August 10, 1993).

⁹ MCI Opposition at 8; AT&T Opposition at 9-10 n.21.

¹⁰ The 1992 modification cited by MCI was also attached to Bell Atlantic's direct case, and makes modifications solely based on the authority granted in the 1989 memorandum.

¹¹ AT&T Opposition at 3-4 n.8.

¹² MCI Opposition at 5.

all carriers, rate of return and price cap, to implement SFAS 106.¹³ If the Commission believed that SFAS-106 costs were not appropriate for price cap regulation, it would not have instituted such a requirement.¹⁴ The Commission does not question whether these costs should be recognized, only whether such costs are appropriate for exogenous treatment.

Ad Hoc questions the accuracy of Bell Atlantic's booked costs,¹⁵ yet fails to challenge a single actuarial assumption underlying these costs. Moreover, Ad Hoc complains of double counting pay-as-you-go amounts in the SFAS-106 costs, but fails to acknowledge that these amounts have been directly excluded by Bell Atlantic.¹⁶

In its Appendix B-2, AT&T suggests that intertemporal double counting is inevitable. AT&T assumes its conclusion, however, by ignoring Bell Atlantic's commitment annually to remove the TBO amount implicit in the GNP-PI.¹⁷

The remaining comments fail to raise any new issues and

¹³ *Southwestern Bell and GTE Service Corporation, Notification of Intent to Adopt Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions*, 6 FCC Rcd 7560 (1991) ("SFAS-106 Adoption Order").

¹⁴ By requiring the SFAS-106 costs be booked, the Commission implicitly found that the pay-as-you-go costs on the books at the time understated the real costs of these benefits.

¹⁵ See Ad Hoc Comments at 7.

¹⁶ See Bell Atlantic 1993 Annual Price Cap Tariff Filing, Transmittal No. 565 (filed April 2, 1993).

¹⁷ See *id.* at 4-23.

provide no basis for Commission rejection of exogenous treatment of SFAS-106 costs.

2. Allocation of Sharing Amounts.

AT&T and Allnet¹⁸ incorrectly suggest that Bell Atlantic's sharing allocation ignores the 1992 Price Cap Order.¹⁹ In that order, the Commission required that sharing be allocated based on revenue rather than basket earnings.²⁰ Bell Atlantic has done exactly that. What it has not done, and is not required to do, is to allocate based on revenues that are not affected by sharing. Thus, Subscriber Line Charges (SLCs) were excluded from the allocation because these charges are based on a forecast of revenue requirement and demand, and are not impacted by sharing amounts. While the 1992 Price Cap Order is silent on this subject, the Commission has previously made clear that it requires a cost causative approach.²¹ It is undisputed that Bell Atlantic's allocation methodology is cost causative, and therefore no modification is required.

¹⁸ See AT&T Opposition at 27-30; Allnet Comments at 6-8.

¹⁹ *1992 Annual Access Tariff Filings, National Exchange*, Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, 7 FCC Rcd 4731 (1992).

²⁰ *Id.* at ¶ 5.

²¹ See *Policy and Rules Concerning Rates for Dominant Carriers*, Order on Reconsideration, 6 FCC Rcd 2637, ¶ 113 (1991).

3. Add-back of Sharing Amounts.

None of the comments here or in the separate docket reviewing the Commission's proposed rulemaking on this issue,²² can cite a Commission rule that requires add-back of sharing. The NPRM -- which would not be necessary if there were a preexisting rule -- acknowledges that there is no clear rule on the subject.²³ In the absence of a rule, it would be unlawful retroactive ratemaking to impose the proposed rule on existing tariffs. None of the comments suggest otherwise. Moreover, as Bell Atlantic made clear in its comments in the NPRM docket, the proposed rules run directly counter to price cap policy, would allow multi-year recognition for a single-year sharing adjustment, and should be rejected by the Commission.

4. Calculation of the "g" Factor.

Bell Atlantic correctly calculated the "g" factor in its annual price cap filings. The "g" factor represents the growth of minutes per access line, 50% of the benefit of which is shared with ratepayers.²⁴ Despite unsupported suggestions raised by AT&T,²⁵ the data provided in Bell Atlantic's exhibit of its direct case was consistent with Bell Atlantic's ARMIS filings. While the cause of

²² *Price Cap Regulations of Local Exchange Carriers, Rate of Return Sharing and Lower Formula Adjustment*, Notice of Proposed Rulemaking, 8 FCC Rcd 4415 (1993) ("Add-back NPRM").

²³ See Add-back NPRM at ¶ 4.

²⁴ See 47 C.F.R. § 61.45(c).

²⁵ See AT&T Opposition at 26.

AT&T's confusion is unclear, AT&T may be comparing the numbers to different ARMIS filings.²⁶ If the Commission should require Bell Atlantic to change its methodology for determining the line count, Bell Atlantic should be able to adjust its Price Cap Index for all years in which the change impacts.

Conclusion

None of the issues designated by the Commission nor any information submitted by other parties provide grounds for any alteration of Bell Atlantic's tariffs. The Commission should conclude its investigation and grant final tariff approval.

²⁶ Notwithstanding AT&T's claim that the data presented in Bell Atlantic's exhibit was rife with inconsistencies, the Bell Atlantic data is consistent with Bell Atlantic's annual filing for each respective year. The data supporting the 1993 figures was the data provided in Transmittal No. 577, Workpaper 8-37. For 1992 figures, the data was provided in Transmittal No. 513, Workpaper 8-20. For 1991 figures, the data was provided in Transmittal No. 445, Workpaper 7-30. The access lines used in these filings were from the fourth quarter ARMIS 43-01 filings for the most recent submission of the ARMIS 43-01 reports filed at the time of the original tariff filing. AT&T may be comparing the access lines to incorrect ARMIS 43-01 submissions.

The only reason the "base period minus 1" line count did not equal the previous year's line count was because, at AT&T's request, Bell Atlantic revised its 1993 figures to exclude Special Access lines subject to surcharge. See Bell Atlantic Transmittal No. 568 Amended, filed June 17, 1993.

Respectfully submitted,

The Bell Atlantic Telephone Companies

By Their Attorney

A handwritten signature in dark ink, appearing to read 'Edward Shakin', is written over a horizontal line.

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Dated: September 10, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Bell Atlantic Reply Comments" was served this 10th day of September, 1993, by first class mail, postage prepaid, to the parties on the attached list.


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